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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/657,650	09/08/2003	Larry J. Pacey	47079-00134USPT	2836
30223	7590	04/26/2005	EXAMINER	
JENKENS & GILCHRIST, P.C.			ONEILL, MICHAEL W	
225 WEST WASHINGTON			ART UNIT	
SUITE 2600			PAPER NUMBER	
CHICAGO, IL 60606			3713	

DATE MAILED: 04/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/657,650

Applicant(s)

PACEY ET AL.

Examiner

Michael O'Neill

Art Unit

3713

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 10 February 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Claim Rejections - 35 USC § 102***

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-6, 8, 9, 11-19 and 22 are rejected under 35

U.S.C. 102(e) as being anticipate by Brosnan et al. USPub.

2004/0002380.

Brosnan et al. discloses a gaming machine (2) comprising a means for receiving a wager (30); system memory (56) containing physical object data and simulation rule data, see figure 1B for the physical object (370,371) data showing the location of center of mass the rotation about three axis and the collision location (372), the trajectory rules and the collision rules for linear collision; a display (34); a central processor (224) which acts as trajectory-based game controller, i.e. 3D processor and thus is for processing the physical data and simulation data to produce realistic depiction of gaming activity, see [para 0056-0112] which is explains the criteria needed to provided a trajectory-based game of chance such as roulette and pachinko whereby the gaming environment (300)

Art Unit: 3713

includes trajectory rules, collision rules, exit rules and the properties of the objects such as center of mass, mass, and moments of inertia for a 3-D object; and a means for awarding a payoff (38). Re. claim 9: the motion capture data is the data that is gather by the sensor (102) which capture the forces and exerted on the ball (116) and time T it takes for ball (116) to travel through ball conduit (150). With the information gathered from this sensors, velocity and acceleration can be calculated for the ball (116). With all physical parameters regarding the ball (116) being known, these parameters are used as the initial values for the calculation of virtual ball's motion through the pachinko game playing area as shown in figure 9.

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Art Unit: 3713

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

Claims 7, 10, 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Brosnan in view of Brown et al. USPN, 6,793,575 and Bourg, Physics for Game Developers, chapters 2, 4, 5, 11 and 13-16.

What Brosnan et al. discloses had been discussed above and is incorporated herein. What the reference lacks in clearly disclosing is the invention being using in a racing game, i.e. a sports game. Instead, the reference discloses the invention being used in games of chance such as roulette or pachinko. In an analogous gaming machine, Brown teaches a wagering racing game, see e.g. figure 1. Also, in an analogous reference which also resolves the level of one of ordinary skill in the art, see preface, Bourg teaches the development of a race car and multiple bodies in 3D, see particularly chapter 16, but it is first necessary to comprehend chapters 2, 4, 5, 11, and 13-15. Bourg goes through all of the parameters need to be considered and the coding that needs to be developed in order to provide handle multiple bodies in 3D which when broken down into primitives is what a racing car game is, multiple bodies moving in 3D. Therefore, one of ordinary skill in the art understanding the concepts of physics in a game environment from reading Bourg and see the implementation of racing game on a gaming machine from Brown et al. would find it obvious to apply

Art Unit: 3713

the teachings in Brown et al. and Bourg to Brosnan et al. in order to provide gaming machines that are desired by those skilled in the art as exciting and are interesting enough to hold a player's interest over a long period of time as suggest by Brosnan et al in para [0010].

#### ***Response to Arguments***

Applicant's arguments with respect to claims 1-22 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael O'Neill whose telephone number is 571-272-4442. The examiner can normally be reached on Monday through Friday 8:30 am to 5 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Xuan M. Thai can be reached on 571-272-7147. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Art Unit: 3713

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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A handwritten signature in black ink, appearing to read 'MICHAEL O'NEILL', written in a cursive style.

**MICHAEL O'NEILL**  
**PRIMARY EXAMINER**